

In the Court of the Sub Judge-II, Benipur

Present:- Pranav Kumar Bharti

Title Partition Suit No.-141 of 2012, Registration No.-1683/14
Bani Bilas Sanskrit High School, Batho & Others vs. Jagdamba Sanskrit Mahavidyalay & Others

19-04-2022

Case is called out and record is produced before me. Hazari is filed on behalf the plaintiff while defendants are absent. Do proper pairavi. Perused the case record. On call learned counsel of the plaintiff appeared in the Court and submitted that a petition U/O-I, Rule-10 & u/s-151 of the Civil Procedure Code herein after referred as the C.P.C. has been filed on behalf of the plaintiff on 05.04.2022. Ex-parte proceedings is going on so copy of this petition is not supplied to the defendant. In this petition, it is submitted that Choudhary Bisheshwar Rai was the Head Master the plaintiff no.-1 previously. He was retired in the year 2016 from the post of the Head Master. Now the petitioner has been acting and officially working as the Head Master of plaintiff no.-1, *Bani Bilas Sanskrit High School, Batho*. It has been managed and controlled by the Head Master. Now in the interest of justice, it is expedient that this petitioner be substituted in place of Bisheshwar Roy, the Ex-Head Master of plaintiff no.-1. The substitution of the petitioner is very necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in this suit. Therefore, it is prayed that your honour graciously be pleased to order to strike out the name of the Ex-Head Master, Bisheshwar Roy from column of the plaintiff and further be pleased to order to add the name of petitioner in the interest of justice.

No rejoinder petition is filed on behalf of the defendants on petition dated-05.04.2022.

Heard the learned counsel of the plaintiff and perused the case record. On hearing and perusal of the plaint and entire case record, it appears to the Court that this instant suit has been brought by the plaintiffs against two defendants on 30.08.2012. The Bani Bilas Sanskrit High School, Batho is the plaintiff no.-1 and its Head Master has been arrayed as plaintiff no.-2. The Head Master of the Bani Bilas Sanskrit High School, Batho used to conduct this suit. Prior to this petitioner one Bisheshwar Rao was the Head Master of the

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Continued.....

Bani Bilas Sanskrit High School, Batho. He retired in the year 2016 and now petitioner Shivanand Poddar is the Head Master of the Bani Bilas Sanskrit High School, Batho. He wants to conduct this suit with the permission of the Court that's why he filed a petition on behalf of the plaintiff U/O-I, Rule-10 & u/s-151 of the C.P.C. on 05.04.2022 praying for deletion of the name of Ex- Head Master from plain and to his name as plaintiff no.-2. and the same is fixed for order today.

Order-I,Rule-10(2) Court may strike out or add parties- "The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined,whether as plaintiff or defendant,be struck out,and the name of any person who ought to have been joined,whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added."

The Court is of opinion that since the plaintiff no.-1,the Bani Bilas Sanskrit High School, Batho is legal entity,so in that scenario,petitioner seems to be a necessary party to this suit and for effectual and complete adjudication of all questions involved in this suit,his presence as plaintiff no.-2 is essential.

Considering the fact and circumstances as discussed above,the Court is inclined with contention of learned counsel of the petitioner/plaintiff. Thus, petition dated-05.04.2022 filed on behalf of the petitioner/plaintiff is allowed. Learned counsel of the plaintiff is directed to amend the plant accordingly within 20 days. Hence, the petition dated-05.04.2022 is disposed of as accordingly. Fixing on 27-04-22 for amendment in plaint.

Dictated

Sub Judge-II
19.4.22